

REMARKS

Claim 1 stands rejected under 35 U.S.C. § 103(a) as being anticipated by United States Patent Number 6,498,038 to Berkowitz et al. (hereinafter “Berkowitz”) in view of United States Patent Application Publication Number 2004/0254964 by Kodama et al. (hereinafter “Kodama”) in further view of United States Patent Publication Number 2003/0079102 by Lubbers et al. (hereinafter “Lubbers”). Claims 2-6, 8-14, 16, 18-23, 25-26, and 28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Berkowitz, Kodama, and Lubbers in view of United States Patent Number 6,934,822 to Armangau et al. (hereinafter “Armangau”).

Applicants have amended claim 1 with the limitations of claims 2. In addition, Applicants have amended claims 1, 6, 13, 16, 23, and 26 with the limitations of claim 3. Claim 23 is also amended with limitations of claim 6. Claims 2, 3, and 10 are canceled.

Applicants have also amended claims 1, 6, 13, 16, 23, and 26 with the limitations “...a snapshot set stored in a metadata buffer...” “...wherein the metadata buffer stores metadata for storage-based operations...” and “...defined by metadata in the metadata buffer...” The amendments are fully supported by the specification. Page 9, lines 21-25. Claim 18 is amended to remove elements of claim 16 as amended.

Response to rejections of claims under 35 U.S.C. § 103.

Claim 1 stands rejected under 35 U.S.C. § 103(a) as being anticipated by Berkowitz in view of Kodama in further view of Lubbers. Claims 2-6, 8-14, 16, 18-23, 25-26, and 28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Berkowitz, Kodama, and Lubbers

in view of Armangau. Applicants respectfully traverse these rejections.

Claims 1, 6, 13, 16, 23, and 26 include the limitation of a “...redundancy level indicator configured to select a redundancy in the range of no redundancy to a RAID level 50 redundancy...” Claim 1. See also claims 6, 13, 16, 23, and 26. The Examiner cites Lubbers as disclosing a redundancy level indicator. Lubbers, ¶ 73, 83-85. Applicants respectfully disagree. Lubber teaches a redundancy storage set selector (RSSs) that identifies a redundancy storage set but does not select a redundancy. Specifically, Lubbers discloses that the RSSs includes a redundancy storage set identification, a physical member selection, and RAID information. There is no mention of selecting a redundancy level. Because neither Lubbers, Berkowitz, Kodama, nor Armangau teach a redundancy level indicator configured to select a redundancy in the range of no redundancy to a RAID level 50 redundancy, Applicants submit that claims 1, 6, 13, 16, 23, and 26.

Applicants have amended claim 1 with the limitation of a background copy indicator as in claims 6, 13, 23, and 26. The Examiner cites Armangau as teaching a background copy indicator. Armangau, col. 16, lines 19-44. While Armangau does disclose a background copy routine, Applicants respectfully disagree that Armangau discloses a background copy indicator. Applicants therefore submit that claims 1, 6, 13, 23, and 26 are allowable as the cited references do not disclose each element of the claimed invention.

Claims 1, 6, 13, 23, and 26 also include the limitation of a “metadata buffer” that “...stores metadata for storage-based operations. Neither Lubbers, Berkowitz, Kodama, nor Armangau teach the limitation of a metadata buffer. Applicants therefore submit that claims 1, 6,

13, 23, and 26 are allowable. In addition, Applicants submit that claims 4, 5, 8, 9, 11, 12, 14, 18-22, 25, and 28 are allowable as depending from allowable claims.

If any impediments to the prompt allowance of the claims can be resolved by a telephone conversation, the Examiner is respectfully requested to contact the undersigned.

Respectfully submitted,

/Brian C. Kunzler/

Brian C. Kunzler
Reg. No. 38,527
Attorney for Applicant

Date: April 18, 2007
8 East Broadway, Suite 600
Salt Lake City, UT 84111
Telephone (801) 994-4646
Fax (801) 531-1929